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Letter dated 31 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 July 2002 (S/2002/808).

The Counter-Terrorism Committee has received the attached supplementary report from Angola submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 28 March 2003 from the Permanent Mission of the Republic of Angola to the United Nations addressed to Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Angola to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to submit herewith the second report of the Republic of Angola on legislation and measures for preventing and combating terrorism, prepared pursuant to Security Council resolution 1373 (2001) (see enclosure).

Enclosure

REPUBLIC OF ANGOLA

REPORT ON LEGISLATION AND MEASURES FOR PREVENTING AND COMBATING TERRORISM, PREPARED PURSUANT TO SECURITY COUNCIL RESOLUTION 1373 (2001)

March 2003

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REPORT OF THE REPUBLIC OF ANGOLA PURSUANT TO PARAGRAPH 6 OF THE SECURITY COUNCIL RESOLUTION 1373 (2001) 0F SEPTEMBER 28, 2001

Since the events of September 11, and following the adoption by the Security Council of Resolution 1373 (2001), the Republic of Angola has undertaken some measures in the areas covered by the Security Council Resolution, to combat the transnational organized crime and terrorism in particular.

In this regard, and within the implementation of the United Nations Security Council Resolution 1373, the Government of the Republic of Angola prepared its second report which outlines legislative actions for preventing and combating terrorism.

This report is presented according to the systematization suggested by the Counter Terrorism Committee. If requested a supplementary reports will be submitted to the Committee.

What legislative provisions and procedures enable the economic and financial system of Angola to guard against operations carried out by the persons or cntities that are involved, or suspected of being involved in criminal activities, especially terrorist activities or activities in support of terrorism? If there are none, is it planned to introduce?

In terms of the Organic Law of the National Bank of Angola, Law 6/97 of July 1, 1997, namely, provision 2 of article 17, the National Bank of Angola can require from any public or private entity to provided directly the necessary information related to their monetary and exchange policy, as well as the functioning of the payments system, with the purpose of regulating, overseeing and ensuring their efficiency.

Furthermore, accordingly article 23 of the same Organic Law, the Bank reserves the right to:

- Carry out inspections on institutions subject to its supervision as well as in their respective establishments, and to conduct verifications on any entity or place suspected of irregularities in monetary, financial or exchange activities;

- Consult all the records, books and registers, and to obtain evidence of financial operations, registers of accountancy, contracts, agreements and whatever documents it considers necessary for the exercise of its assignments; and

- Establish, in conformity with the law, the processes necessary to verify the infractions committed.

According to the Penal Law of the Republic of Angola, crime is understood as being a set of presumptions from which depends the application of a penalty or of a measure of criminal security as referred in article 1 of the Penal Law, reads as follow, "Crime is the act voluntarily committed, declared punishable by the Penal Law."

The financing of terrorism and/or terrorist acts in general are referred to in Articles 263 (Association of Malefactors), 282 (Illicit Organizations), 283 (Secret Associations) as well as in Articles 349 and 350 of the Penal Law concerning crimes against the security of individuals.

It is important to note the article 21 of the Constitutional Law, we quote, "the fundamental rights expressed in the Constitutional Law do not exclude the application of other laws or rules from International Law", "the constitutional and legal norms related to fundamental rights are applicable in harmony with the international juridical instruments which Angola is already a part, being capable of being invoked by both parts."

One of the main objectives underlying the changes introduced in the constitutional law, law 12/91, is fundamentally intended to create the constitutional premises necessary to consecrate the basic principles of a rule of law. It therefore important here to mention the role played by the courts and by the organs of national security in the combat against the financing of terrorism and /or terrorist acts in general.

In accordance with provision 1, articles 120 of the Constitutional Law, the courts are competent to administer justice, their decisions being of obligatory compliance by all citizens and other legal persons. They prevail over the acts of other authorities. The different organs of national defense, besides their coercive function, have to the crimes which we are dealing with "procedural initiative" that are exercised in terms of Penal and Procedural Law.

The, penal act and defense of State interests are exercised by the field Office of the Attorney General of the Republic.

Please describe what measures and procedures have been taken or are established by the criminal investigator agencies, the national Bank of Angola and other Financial Institutions to investigate and take appropriate action on all assets linked to terrorist organizations, as referred to in the report.

See references about the competencies given by law to the organs of national security, the attorney general, and court of accounts and to the national bank of Angola, mentioned in the previous item.

Thus, concretely, with reference to the measures taken by the Angolan Government, it is pertinent to mention the role played by Angola in the context of the Security Council's Sanctions Committee 864 (1993) related to the situation in Angola.

Angola played a determinant role in the establishment of resolutions 1127 (1997) and 1173 (1998). The application of these sanctions resulted in the restriction of movements, the freezing of assets and/or financial resources of people and/or organizations that had, at that time, direct or indirect links with the financing and or with terrorist acts committed in Angola and in neighboring countries.

It is equally important to note the role that Angola played in the negotiation and conclusion of the Kimberley process that, as it is known, ended with the adoption of the Interlaken Declaration that put into effect a system of international certification which, as we know, had the main goal of fighting illicit trafficking in diamonds as well as being linked to transnational organized crime and the financing of terrorist acts.

Are financial institutions and other natural of legal persons required to report suspicious transactions to a competent authority?

In terms of the Organic Law of the National Bank (Banco Nacional de Angola), Law 6/97 of July 1, 1997, namely number 2 of article 17, the National Bank of Angola can require to be provided with, directly from any public or private entity necessary information related to monetary and exchange policy as well as to the functioning of payments systems, with the aim of regulating, supervising and promoting their efficiency.

According to provision 19 of law 23/01, which approved the Regulation of the court of Accounts, the court is obligated to inform the magistrates of the attorney general working with the competent courts, on infractions that came in his knowledge. However, it is the responsibility of the Attorney General to carry out the Penal Act and to defend the interests of the State.

Are there any legal or other measures regulating alternative money transfer agencies?

The National Bank of Angola is the exclusive exchange authority of the Republic of Angola.

As the exchange authority, the Bank guides and supervises the exchange market, having also competence to:

- Define the principles regulating the operations in gold and currency;
- Authorize, supervise and control external payments;

- Establish the limit of gold and disposable currency that authorized institutions that deal with the commerce of exchange can have at their disposal as well as on deposit with a third party;

- Maintain the availability at an adequate level for international transactions as referred to by Law;

- Establish the exchange rates and publish them.

It is also within the competence of the National Bank to license, revoke the license and oversee non-financial institutions trading in gold and currency.

In the scope of the execution of the exchange policy, the Bank can carry out justifiable operations, especially:

- To buy, sell or carry out transactions of currencies or of gold ingots;

- To buy, sell or carry out transactions in currencies using for that purpose any of the instruments commonly used in such transactions;

- To buy, sell or carry out transactions in treasury bills and other titles emitted or guaranteed by foreign governments or international financial organizations;

- To open and maintain accounts with international financial organizations, central banks, monetary authorities and financial organizations outside of the country;

- To open and maintain accounts and to act as agent or correspondent of international financial organizations, central banks, monetary authorities and financial organizations outside the country as well as with foreign governments and their agencies.

Please outline any existing legal provision criminalizing terrorist organizations and activities.

- See reply to the item related to the legislative provisions and procedures that enable the economic and financial system of Angola to guard against operations carried out by persons or entities that are involved or suspected of being involved in criminal activities, especially terrorist activities or activities in support of terrorism.

- According to the Penal Law of the Republic of Angola, crime is understood as being a set of presumptions from which depends the application of a penalty or a

measure of criminal security, as referred in articles 1 of the Penal Law, we quote, "Crime is the act voluntarily committed, declared punishable by the Penal Law".

- The financing of terrorism and/or of terrorist acts in general form, are referred by the articles 263 (Association of Malefactors), 282 (Illicit Organizations), 283 (Secret Associations) as well as by articles 349 and 350 of the Penal Law, which refers to crimes against the security of the people.

Could Angola please provide a progress report on the implementation of measures to avoid the recurrence of terrorist acts in Angola, as referred to in the report?

- See the reply in the related item, "measures and procedures have been taken or are established by the criminal investigative agencies, the National Bank of Angola and other financial institutions to investigate and take appropriate action on all assets linked to terrorist organizations, as referred to in the report".

Please describe the mechanism for inter-agency co-ordination amongst the authorities responsible for narcotics, financial tracking and security, in regard to providing early warning to other countries and in regard to border control to prevent the movements of terrorists.

Please describe any legal provisions or procedures in Angola that enable exchange of information and cooperation on administrative and judicial matters relating to terrorism with other countries.

The activity of national security are carried out according to the terms of penal procedural law as well as to decrees establishing the organization and functioning of services of public information and of organs and internal services of the Republic of Angola.

As already referred, the financing of terrorism and/or of terrorist acts in general, are referred by articles 263 (Association of Malefactors), 282 (Illicit Organizations), 283 (Secret Associations) as well as by articles 349 and 350 of the Penal Law, which refers to crimes against the security of the people. Terrorist acts thus being perceived as crimes that endanger national security.

The enforcement of national security goals, services and organs are integrated in the national security system:

a) They produce information intended to support security policy and protection of life, integrity and human dignity;

b) They safeguard the public tranquility as well as the constitutional order; and,

c) They produce information intended for the general prevention and special protection against terrorism, illicit drug trafficking and psychotropic substances.

Has Angola concluded any bilateral or mutual agreements on matters relating to terrorism?

The Republic of Angola develops in the framework of its relations with other countries, at the multilateral and bilateral levels, a systematic action in terms of reinforcing the international cooperation on terrorism being the Declaration of the CPLP on the fight against international terrorism (October 31, 2001) demonstrative of its clear engagement.

The entry into force in the domestic law of the 12 Conventions for the Suppression of the Financing of Terrorism which ratification is under preparation, will complete the criminal law framework of the Republic of Angola.

In the fulfilment of its international obligations and in the efforts to combat terrorism, the Government of the Republic of Angola has subscribed the relevant international Agreements and Conventions, as follows:

PALOP (African Portuguese Speaking Countries)

- Agreement on Judicial Cooperation;
- Agreement on Judicial Cooperation with Cape Vert;

CPLP (Portuguese Speaking Countries)

- Agreement on the prevention of undue use of Drugs, combat against the production, and narcotic trafficking psychotropic substances;
- Agreement on Judiciary Cooperation with the Republic of Portugal;

AU (African Union)

- OUA Convention on Terrorism Prevention and Combat;

SADC (Southern African Developing Countries)

- SADC Convention on narcotic trafficking psychotropic substances;

UN (United Nations)

- Convention on offences and certain other acts committed on board aircraft, 1963;
- Convention for the suppression of unlawful acts against the safety of civil aviation, 1970;

- Convention for the suppression of unlawful acts against the safety of civil aviation, 1971;

- The Process of adoption and ratification of the conventions for the Suppression of the Financing of Terrorism as well as the ratification of the Rome statute, UN convention against transnational organized crime and two additional protocols, is under preparation.

Please outline any legal provisions or procedures on extradition. Are claims of political motivation accepted as ground for refusing extradition of alleged terrorists?

In conformity with article 26 of the Constitutional Law of Angola, foreign citizens have the right to apply for asylum in case of persecution for political reasons, according to the laws that are enforced and to international instruments that Angola is a part of.

More concretely, matters of extradition are accommodated in the Constitutional Law by three dispositions, namely, provisions 1), 2) and 3) of article 26, as quoted:

1) The extradition and expulsion of Angolan citizens of the national territory is not permitted.

2) The extradition of foreign citizens for political motivates or based on facts, being possibly sentenced with the penalty of death, according to right of the State that appeal for it, is not permitted.

3) The Angolan tribunals will know, in terms of the law, the facts that constitute reasons for accusing the citizens whose extradition is not allowed according to what is expressed in the previous numbers.

Are claims of political motivation accepted as ground for refusing extradition of alleged terrorists?

- No, they aren't, in accordance with the Constitutional Law.

The CTC would welcome a report, in relation to the relevant international conventions and protocol relating to terrorism, on the progress made by Angola in: becoming a party to the instruments to which it is not yet a party; enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.

See the answer in related item; we quote the item, "has Angola concluded any bilateral or mutual agreements on matters relating to terrorism".

Has Angola addressed any of the concerns expressed in paragraph 4 of the Resolution? "Notes with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, sub regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security".

Due to the need to improve and make the measures more adequate and efficient towards the challenges regarding the prevention and combat the transnational organized crime, the Government of Angola has been carrying out a study in order to identify sectors requiring technical assistance.

A senior interregional advisor of UNODC was in Angola this past January to provide advisory services related to the ratification of the TOC Convention.

Preliminary steps were also undertaken to facilitate the promotion of the international instruments related to the prevention and suppression of terrorism. Following discussions with the pertinent authorities, a new mission is due to take place at the end of May to finalize the texts which will then be forwarded to Parliament for approval.

It should be noted that Angola recognizes that international cooperation provides the foundation upon which countries can strengthen their capacities to implement the already mentioned Conventions. The ratification of these instruments will provide the impetus for Angola to proceed with the revision of its domestic legislation in order to create a legal framework which would, inter-alia, facilitate the concerted global effort to combat terrorism and organized crime.

Particular attention has been devoted to the all concerns expressed in the paragraph 4 of the Resolution 1373, in meantime; the Government of the Republic of Angola does reiterate its commitment towards the Suppression of the Financing of Terrorism as well as the combat against the transnational organized crime.

Annexes*

- Constitutional Law, Part II – Fundamental Rights and duties
- Criminal Code (Codigo Penal), provisions 282, 283 e 284
- Law on national security

March 2003

* Enclosures are filed with the Secretariat and are available for consultation.